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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,640	09/29/2004	Kwang-Ho Choi	CU-3923 RJS/WWP	4297

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EXAMINER	
MAYES, MELVIN C	
ART UNIT	**PAPER NUMBER**
1734	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/509,640	CHOI, KWANG-HO	
	Examiner	Art Unit	
	Melvin Curtis Mayes	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 December 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

(1)

Applicant is advised that should claim 2 be found allowable, claim 6 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

(2)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

(3)

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 3 claim pouring the slip after a thickness of the ceramic bottle has been formed between the frameworks and the screw pipe but then claims "then inserting the screw pipe into the entrance of the ceramic bottle." It is not clear how the screw pipe is "then inserted" into the bottle if the bottle is already formed between the frameworks and the screw pipe and only the frameworks (2)(3) is separated.

Claim Rejections - 35 USC § 103

(4)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(5)

Claims 1, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner 5,947,310 in view of Hwang et al. 6,539,618.

Wagner discloses a method comprising providing a wine bottle of cast glass or other material and provided with internal threads (screw projection) within the neck portion; providing a screw closure of molded plastic having peripheral external screw threads; and engaging the screw threads of the screw closure with the internal threads of the bottle to seal the bottle (col. 3-5). Wagner does not specifically disclose providing the bottle of ceramic.

Hwang et al. teach that wine is conventionally contained in glass or ceramic bottle (col. 1, lines 10-12).

It would have been obvious to one of ordinary skill in the art to have provided the bottle of Wagner as a ceramic or glass bottle, as taught by Hwang et al., as conventional for bottles for containing wine.

The ceramic bottle with internal threads (screw projection) and plastic screw closure (plastic cork) with external screw threads (screw projection) of the references as combined appears to be similar to that of the claimed ceramic bottle and plastic cork, although the ceramic bottle with screw projection may have been produced by a different process.

(6)

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner 5,947,310 in view of Hwang et al. 6,539,618 as applied to claim 1, and further in view of the admitted prior art and Schleicher 2,303,303.

The admitted prior art teaches that a ceramic bottle is made by assembling a funnel-shaped plaster framework with a plaster framework; filling the inner side of the plaster framework with slip to form a bottle of specific thickness by slip casting; removing the plaster frameworks; and performing plasticity processing for the ceramic bottle (pg. 1-2).

Schleisher teach that to provide a ceramic shape with internal groove, a core form body is formed to which the ceramic is slip cast and the core form body is removed by heating during the baking or firing of the ceramic (pgs. 2-4).

It would have been obvious to one of ordinary skill in the art to have made the ceramic bottle using a funnel-shaped plaster framework with a plaster framework, as taught by the admitted prior art, as the method used to slip cast a ceramic bottle. Combining a core form body with the funnel-shaped framework to form the internal threads of the bottle and removing the core form body during the plasticity processing would have been obvious to one of ordinary skill in the art, as Schleicher teach that a core form body which is removed during the firing of the ceramic is used to form a ceramic shape having internal grooves. It would have been obvious to one of ordinary skill in the art to have removed the frameworks while leaving the core form body attached to the ceramic bottle during plasticity processing so as to not deform the internal threads to be formed on the ceramic bottle.

(7)

Claims 1, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 42 36 245 Abstract in view of Hwang et al. 6,539,618 and DE 297 03 338 Abstract.

DE 42 36 245 Abstract discloses a method comprising providing the inside of the neck of a wine bottle with a spiral thread (screw projection); providing the cork of any material with a corresponding thread; and screwing the cork into the bottle. DE '245 Abstract does not specifically disclose providing the bottle of ceramic or the cork of plastic.

Hwang et al. teach that wine is conventionally contained in glass or ceramic bottle (col. 1, lines 10-12).

DE '338 Abstract teaches that a plug for bottles of wine is provided as a plastic plug of heat-resistant plastic with outer threading for high sealing effect.

It would have been obvious to one of ordinary skill in the art to have provided the bottle of DE '245 Abstract as a ceramic or glass bottle, as taught by Hwang et al., as conventional for bottles for containing wine.

It would have been obvious to one of ordinary skill in the art to have provided the cork of DE '245 Abstract as a plastic cork of threaded heat-resistant plastic, as taught by DE '338 Abstract, as a plug used for bottle of wine for high sealing effect.

The ceramic bottle with spiral thread (screw projection) and plastic cork with corresponding thread (screw projection) of the references as combined appears to be similar to that of the claimed ceramic bottle and plastic cork, although the ceramic bottle with screw projection may have been produced by a different process.

(8)

Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 42 36 245 in view of Hwang et al. 6,539,618 and DE 297 03 338 Abstract as applied to claim 1, and further in view of JP 61-60456.

JP 61-60456 (JP '456) teaches that in providing a ceramic bottle with a plastic cork, packing is provided between the bottle and the head of the cork (oral translation).

It would have been obvious to one of ordinary skill in the art to have modified the ceramic bottle sealed by a plastic cork of the references as combined by providing packing, as taught by JP '456, as provided between a ceramic bottle and plastic cork. Providing packing such as of silicon (silicone) would have been obvious to one of ordinary skill in the art as material used to provide a seal between a bottle and cork.

Response to Arguments

(9)

Applicant's arguments filed December 19, 2005 have been fully considered but they are not persuasive.

Applicant argues that with respect to Claim 1, none of the portions of Wagner and Hwang et al. have any disclosure of the process of amended Claim 1 including the methods steps as claimed. Applicant argues that with respect to Claim 1, none of the portions of DE 42 36 245 Abstract, Hwang et al. and DE 297 03 338 Abstract have any disclosure of the process of amended Claim 1 including the methods steps as claimed. Applicant argues that with respect to

Claims 3-5, none of the portions of the admitted prior art and Schleisher have any disclosure of the process of Claim 3.

(10)

With respect to the rejection of Claim 1 over the references as set forth, Claim 1 is a product-by-process claim. "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from the product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted). "As a practical matter, the Patent and Trademark Office is not equipped to manufacture products by the myriad of processes put before it and then obtain prior art products and make physical comparisons therewith. A lesser burden of proof is required to make out a case of prima facie obviousness for product-by-process claims because of their particular nature than when a product is claimed in the conventional fashion." *In re Brown*, 59 CCPA 1063, 173 USPQ 685 (1972); *In re Fessmann*, 180 USPQ 324 (CCPA 1974).

In this case, the ceramic bottle with screw projection and plastic cork with screw projection appears to be similar to that of the prior as combined, although possibly produced by different processes.

With respect to the rejection of Claim 3, the Examiner maintains the position that it would have been obvious to one of ordinary skill in the art to have made the ceramic bottle using a funnel-shaped plaster framework with a plaster framework, as this is taught by the admitted

prior art as used to slip cast a ceramic bottle. Combining a core form body with the funnel-shaped framework to form the internal threads of the bottle and removing the core form body during the plasticity processing (firing) would have been obvious to one of ordinary skill in the art, as Schleicher teach that a core form body which is removed during the firing of the ceramic is used to form a ceramic shape having internal grooves. It would have been obvious to one of ordinary skill in the art to have removed the frameworks while leaving the core form body attached to the ceramic bottle during plasticity processing so as to not deform the internal threads to be formed on the ceramic bottle during the firing process.

Conclusion

(11)

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

(12)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Curtis Mayes whose telephone number is 571-272-1234. The examiner can normally be reached on Mon-Fri 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melvin Curtis Mayes
Primary Examiner
Art Unit 1734

MCM
March 6, 2006